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Directive 10-1: Extensions of Time to File for Corporate Taxpayers Included in a Combined Group for the 2009 Taxable Year

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This Directive explains a change in Department of Revenue policy concerning extensions of time to file for corporate taxpayers that are included in a combined group required to file a combined report, Form 355U, "Income Excise for Taxpayers Subject to Combined Reporting," for the 2009 taxable year. Taxpayers that are included in such a combined group and that are therefore filing Form 355U for the 2009 taxable year will be granted a longer period of time to file their returns in certain circumstances. The Department is issuing this Directive in recognition that, because the 2009 taxable year is the first year for which combined reporting is required of many corporate taxpayers, some taxpayers may require additional time to meet the required filing obligations.

ISSUE:

How may corporate taxpayers that are required to file Form 355U for the 2009 taxable year receive a filing extension period of seven months instead of six months to file their returns?

DIRECTIVE:

Effective for the tax year beginning on or after January 1, 2009 but before January 1, 2010, a taxpayer or taxpayers filing Form 355U as the taxable members of a combined group will be eligible to receive a seven month extension of time to file such form by using the Department's WebFile for Business application at <https://wfb.dor.state.ma.us/WEBFILE/BUSINESS/Public/Webforms/Login/Login.aspx>. The requirements for making a valid electronic extension request, including the requirement that such a request must be made on behalf of such taxable members by the combined group's principal reporting corporation, are as set forth in this Directive. In any situation in which the taxable members of a combined group, acting through the group's principal reporting corporation, validly request the seven month extension, the Department will recognize the extension without the need on the part of such taxpayers to provide a good cause justification.

DISCUSSION OF LAW; REQUIREMENTS FOR, AND CONSEQUENCES OF, MAKING THE ELECTION:

Massachusetts General Laws chapter 62C, section 19 authorizes the Commissioner to grant a taxpayer a reasonable extension of time for filing a return. Pursuant to that authority, the Commissioner will grant taxpayers that are required to file Form 355U for their 2009 taxable year a seven month extension of time to file their returns, upon the taxpayers' request for an extension, in place of the normal six month extension period. Taxpayers that are required to file Form 355U and that seek this seven month extension should use the Department's WebFile for Business application to make their extension request. In WebFile for Business, taxpayers are directed to select "Extension Type," then should select "Specific Period Extension," then select a date seven months from the due date of their return. For calendar year filers, that extended due date is October 15,

2010. In order to use the Department's WebFile for Business application to request the seven month extension, all taxpayers filing the Form 355U need to be registered to file Combined Reporting Corporate Excise with the Department. Taxpayers with existing registrations should access the website and go to "Manage Registrations," and then select "Manage Business Tax Types," then select "List Locations," then select "Add Tax Type." The effective date must be January 1, 2009 or thereafter. Taxpayers that are not registered with the Department should access the website and go to "I Want to Register," then complete the registration process.

All taxpayers that are required to file Form 355U must register for this tax type on the Department's WebFile for Business application irrespective as to whether they are seeking an extension of time to file.

Taxpayers that are required to file Form 355U that, due to good cause, seek an extension of time to file longer than seven months must contact the Customer Service Bureau for assistance in resolving any extension issues.

The principal reporting corporation of a combined group that is filing Form 355U is the only member of the combined group that may request an extension of time to file on behalf of all the taxable members of the combined group. See 830 CMR 63.32B.2.2(11). Further, if the principal reporting corporation makes the extension request, all of the taxable members of the combined group will be bound by the request. Conversely, no extensions will be granted to individual members of a combined group with respect to income that is to be reported in the combined report apart from an extension request that is made by a principal reporting corporation. In addition, a request for an extension must be made on or before the due date of the Form 355U filing and must be accompanied by payment of the tax estimated to be due. G.L. c. 62C, § 19; 830 CMR 62C.19.1(4).

A request for an extension to file Form 355U by a combined group's principal reporting corporation serves as a request for an extension to file with respect to all income that is reported on such filing, including income of individual taxpayers that is not part of the combined group's taxable income in the instance in which such taxpayers are to report their income on the same taxable year-end as the combined group (e.g., this rule applies in the instance of an individual taxpayer member of the group that is to report allocable income when that taxpayer has the same taxable year-end as the combined group). In addition, a request for an extension to file Form 355U by a combined group's principal reporting corporation serves as a request for an extension to file with respect to any non-income measure tax filing that is to be made by the taxpayer members of the combined group in the instance in which such taxpayers are to report their non-income measure using the same taxable year-end as the combined group. However, in any case in which a taxpayer member of the combined group has a different taxable year that ends on a different date than the year-end of the combined group, it is to report any income that is not part of the combined group's taxable income (e.g., allocable income) and its non-income measure, if any, using that different tax year. In these latter cases, an extension request with respect to the taxpayer's tax filing is to be made separately by the taxpayer (and not the combined group's principal reporting corporation), consistent with the general rules for making an extension request.

To the extent that the policy announced herein conflicts with the policy announced in TIR 06-21, TIR 06-21 is superseded by this public written statement.

/s/Navjeet K. Bal
Navjeet K. Bal
Commissioner of Revenue

NKB:MTF:rmh

February 25, 2010

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